

# ***EXHIBIT 2***

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH**

BRENDA LYNN GEIGER, CLAUDIA  
SAMPEDRO, DANIELLE RUIZ, DESSIE  
MITCHESON, IRINA VORONINA,  
JAMILLETTE GAXIOLA, JESSICA 'JESSA'  
HINTON, JESSICA KILLINGS a/k/a  
CHARM KILLINGS, JESSICA BURCIAGA,  
JESSICA ROCKWELL, LINA POSADA,  
LUCY PINDER, MARIANA DAVALOS,  
MAYSA QUY, PAOLA CANAS, SANDRA  
VALENCIA, and TIFFANY TOTH,

*Plaintiffs,*

v.

OMEGA RESTAURANT & BAR, LLC d/b/a  
OMEGA BAR a/k/a OMEGA  
c/o F. Sullivan Callahan, PLC, Registered  
Agent  
327 Duke Street  
Norfolk, VA 23510

AND

DOES 1 THROUGH 5,

*Defendant.*

Case No.CL200007836-00

**AMENDED COMPLAINT**

Plaintiffs BRENDA LYNN GEIGER, CLAUDIA SAMPEDRO, DANIELLE RUIZ,  
DESSIE MITCHESON, IRINA VORONINA, JAMILLETTE GAXIOLA, JESSICA  
'JESSA' HINTON, JESSICA KILLINGS a/k/a CHARM KILLINGS, JESSICA  
BURCIAGA, JESSICA ROCKWELL, LINA POSADA, LUCY PINDER, MARIANA  
DAVALOS, MAYSA QUY, PAOLA CANAS, SANDRA VALENCIA, and TIFFANY  
TOTH, (collectively, "Plaintiffs"), by and through their undersigned counsel, as and for

their Amended Complaint (“Complaint”) against Defendant OMEGA RESTAURANT & BAR, LLC d/b/a OMEGA BAR a/k/a OMEGA (collectively “Defendant”) respectfully allege as follows:

### **BACKGROUND**

1. This is an action for damages and injunctive relief relating to Defendant’s misappropriation, alteration, and unauthorized publication and use in advertising of images of Plaintiffs, each of whom are well-known professional models, to promote their night club, Omega Bar located in Virginia Beach, Virginia (“Omega” or the “Club”).

2. As detailed below, Defendant’s misappropriation and unauthorized use of Plaintiffs’ images, photos and likenesses (collectively, “Images”) constitutes: a) violation of each Plaintiff’s statutory right of publicity, Va. Code Ann. § 8.01-40, which prohibits the unauthorized use of a name or picture of any person; b) business conspiracy, in violation of Va. Code Ann. § 18.2-499; and c) violation of section 43 of the Lanham Act, 28 U.S.C. § 1125(a)(1), which prohibits both false or misleading representations of fact in commercial advertising and the false or misleading use of a person’s image for commercial purposes

3. In addition to the actual, punitive and exemplary damages set forth below, Plaintiffs likewise seek an Order from this Court permanently enjoining Defendant from using their Images to promote any Club, via any medium.

### **JURISDICTION & VENUE**

4. This Court has subject matter jurisdiction over the causes of action alleged and personal jurisdiction pursuant to Va. Code § 8.01-328.1 and Va. Code § 8.01-330.

5. As set forth immediately below, Plaintiffs are, and at all times relevant to this action have been, professional models who reside throughout the United States.

6. According to publicly available records, Defendant OMEGA RESTAURANT & BAR, LLC is a corporation formed under the laws of the state of Virginia, with its principal place of business located at 5437 Port Royal Drive, Virginia Beach, Virginia 23462. OMEGA RESTAURANT & BAR, LLC operates Omega Bar also known as Omega, which is located at 928 Diamond Springs Road, Suite 125, Virginia Beach, Virginia 23455.

7. Venue is proper in the Circuit Court of the City of Virginia Beach because it is Defendant's place of business.

### **PARTIES**

#### ***Plaintiffs***

8. Plaintiff Brenda Lynn Geiger ("Geiger") is a well-known professional model, and a resident of Onondaga County, New York.

9. Plaintiff Claudia Sampedro ("Sampedro") is a well-known professional model, and a resident of Miami-Dade County, Florida.

10. Plaintiff Danielle Ruiz ("Ruiz") is a well-known professional model, and a resident of Los Angeles County, California.

11. Plaintiff Dessie Mitcheson ("Mitcheson") is a well-known professional model, and a resident of Orange County, California.

12. Plaintiff Irina Voronina ("Voronina") is a well-known professional model, and a resident of Los Angeles County, California.

13. Plaintiff Jamillette Gaxiola ("Gaxiola") is a well-known professional

model, and a resident of Clark County, Nevada.

14. Plaintiff Jessica 'Jessa' Hinton ("Hinton") is a well-known professional model, and a resident of Los Angeles County, California.

15. Plaintiff Jessica Killings a/k/a Charm Killings ("Killings") is a well-known professional model, and resident of Los Angeles County, California.

16. Plaintiff Jessica Burciaga ("Burciaga") is a well-known professional model, and a resident of Fulton County, Georgia.

17. Plaintiff Jessica Rockwell ("Rockwell") is a well-known professional model, and a resident of Los Angeles County, California.

18. Plaintiff Lina Posada ("Posada") is a well-known professional model, and a resident of San Bernardino County, California.

19. Plaintiff Lucy Pinder ("Pinder") is a well-known professional model, and a resident of Winchester, England.

20. Plaintiff Mariana Davalos ("Davalos") is a well-known professional model, and a resident of Los Angeles County, California.

21. Plaintiff Maysa Quy ("Quy") is a well-known professional model, and a resident of Clark County, Nevada.

22. Plaintiff Paola Canas ("Canas") is a well-known professional model, and a resident of Los Angeles County, California.

23. Plaintiff Sandra Valencia ("Valencia") is a well-known professional model, and a resident of Medellin, Colombia.

24. Plaintiff Tiffany Toth ("Toth") is a well-known professional model, and a resident of Orange County, California.

***Defendant***

25. According to publicly available records, defendant OMEGA RESTAURANT & BAR, LLC is formed under the laws of the state of Virginia. During times relevant to this action, OMEGA RESTAURANT & BAR, LLC operated Omega Bar a/k/a Omega in Virginia Beach, Virginia.

26. DOES 1 THROUGH 5 are certain yet to be named individuals and/or entities that OMEGA RESTAURANT & BAR, LLC worked in conjunction with, at the direction of, or in concert with as pertains to the subject advertisements which contain images of Plaintiffs. On information and belief, and without limitation, such individuals and/or entities include graphic designers, independent contractors, DJs, social media consultants and/or others.

**FACTUAL ALLEGATIONS**

27. As set forth immediately below, each Plaintiff is a well-known professional model who earns her livelihood modeling and licensing her Images to companies, magazines and individuals for the purpose of advertising products and services.

28. Plaintiffs' careers in the modeling industry place a high degree of value on their good will and reputation, which is critical in order to maximize their earning potential, book modeling contracts, and establish each of their individual brands. In furtherance of establishing, and maintaining, their brands, Plaintiffs are necessarily selective concerning the companies, and brands, for which they model.

29. Each of the Plaintiffs' Images was misappropriated, and intentionally altered, by one or more of the Defendant in order to make it appear that they worked

at, endorsed or were otherwise associated or affiliated with Omega.

30. In the case of every Plaintiff, such appearance was false.

31. Moreover, in every case this misappropriation occurred without any Plaintiff's knowledge, consent or authorization, at no point did any Plaintiff ever receive any remuneration for Defendant's improper and illegal use of their Images, and Defendant's improper and illegal use of Plaintiffs' Images have caused each Plaintiff to suffer substantial damages.

32. Defendant's obvious intention in using Plaintiffs' images without consent or remuneration was to harm Plaintiffs by effectively forcing them to appear in Defendant's advertising for no compensation.

33. Further, in certain cases Defendant misappropriated Plaintiffs' advertising ideas because the Images they misappropriated came from Plaintiffs' own social media pages, which each Plaintiff uses to market herself to potential clients, grow her fan base, and build and maintain her brand.

### ***Plaintiffs' Backgrounds and Careers***

34. Geiger is a professional model and actress who performed with eight-time Grammy nominee rapper Lil Wayne in a music video for two-time Grammy nominee singer Keri Hilson. She is most known for her work in Glamour Magazine and her appearance on "The Howard Stern Show" in a "Miss HTV March" contest. Geiger has appeared in numerous magazines such as Show, Maxim and Raw, and has modeled for several product campaigns such as Primitive Clothing, where she currently has her own line of custom skateboard decks.

35. That we know of, Geiger is depicted in the photos in Exhibit "A" to

promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Geiger was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

36. Geiger has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

37. Sampedro is a Cuban born model, mother and spokeswoman. Sampedro moved to Miami when she was 6 years old and at 16, was discovered by Elite models. Sampedro has appeared in many catalogues, magazine editorials and has a number of cover credits for magazines such as *Nine 5 Four*, *Shock*, *Face to Face* and *Mixed*. Sampedro is a sponsored model for Nutri Sups Nutrition and is also a spokesmodel and contracted model for Bare Ava. Sampedro is in the Social Media Influencers top class with over a million Instagram followers and a further combined half million fans on Facebook and Twitter. Sampedro is engaged to and has a child with Green Bay's star defensive end Julius Peppers.

38. That we know of, Sampedro is depicted in the photos in Exhibit "B" to promote Omega on its Instagram and Facebook pages. This Image was intentionally altered to make it appear that Sampedro was either an entertainer working at Omega that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

39. Sampedro has never been employed at Omega, has never been hired to



endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

40. Ruiz is a veteran of the entertainment industry and an extremely accomplished, established, and highly sought model, host, and actor. She shot to fame by winning Miss Hawaiian Tropic Brazil and competing worldwide. As a model, she has worked for Foreplay Lingerie, Elegant Moments, Escante Lingerie, Hustler Apparel, Body Zone Apparel, and Ziggy NY Shoes. She was also a contract model for Fredericks of Hollywood and L\*Space, also for Rockstar Energy's Miss Motorcross and Monster Energy Dime Squad Girl. She has appeared in many magazines and graced the covers of *Maxim* and *Elegant*. Her career on TV is just as impressive with appearances on *The New Girl*, *The Finder*, *Breaking In*, *Cougar Town*, *CSI Entourage*, *The Jonas Brothers*, *Miami Trauma*, *Dark Blue*, *Love Bites*, *Friends with Benefits*, *Battle LA*, *The Ex's* and hosting the series *WPT Royal Flush*. She has over 182 thousand followers on Instagram and over 16 thousand followers on Twitter.

41. That we know of, Ruiz is depicted in the photos in Exhibit "C" to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Ruiz was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

42. Ruiz has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

43. Mitcheson competed for Miss Pennsylvania USA at eighteen and placed in the top ten. Shortly after, she became the face of Playboy Intimates, the face of MGM Grand Las Vegas, and Miss Pennsylvania Intercontinental. Mitcheson entered *Maxim* magazine's annual "Hometown Hottie" contest along with thousands of models, she was crowned *Maxim* magazine's "Hometown Hottie". Later that year, Mitcheson was #100 on *Maxim*'s "Hot 100" list. She has graced the pages of multiple issues of *Maxim*, including a three-page spread, two centerfolds, and the cover for the May 2014 "Navy" issue. Mitcheson was recently featured as the main Tecate Beer ring girl in the biggest Pay-per-View event in history, the Mayweather v. Pacquiao fight, which gave her worldwide visibility with over 100 million viewers. This triggered a huge demand for her modeling services. She has been featured by national advertisers such as Crest toothpaste, Tecate, Roma Costumes, and J. Valentine. Mitcheson currently has 406 thousand Instagram followers, over 22 thousand Facebook followers, and 13.9 thousand Twitter followers.

44. That we know of, Mitcheson is depicted in the photos in Exhibit "D" to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Mitcheson was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

45. Mitcheson has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

46. Voronina is an international model and actress. After becoming *Playboy's* Miss January 2001, she represented international brands including SKYY Vodka, Miller Lite, Michelob Ultra, Bacardi, and Sisley & Detour to name a few. She has millions of visual impressions around the globe via the covers and pages of worldwide magazines such as *FHM*, *Maxim*, *Playboy* (in 20 countries), *Max*, *Ocean*, *Shape*, *944*, *Knockout*, *Q*, *People*, *Kandy*, *Rukus*, *Vape* and *Browz* magazines. In 2008, Voronina was named St. Pauli Girl spokes model and completed a 12-month PR tour across America. She became the first ever St. Pauli Girl to ring the NYSE closing bell representing Constellation Brands. In 2013, Voronina was named *Kandy Magazine's* Model of the Year as a result of her fans downloading the highest number of digital issues that year. She loves connecting with her fans and stays active daily across all social media outlets for her followers on Facebook, Instagram, Twitter and YouTube. Voronina got her first big screen break in "Reno 911!: Miami.". Her credits include a series regular role in the fully improvised sitcom "Svetlana" for HD Net, the first ever live action show on Adult Swim Network "Saul of the Mole Men," guest star appearance on Nickelodeon's "iCarly," Comedy Central's "Reno 911!", and feature film parts in "Balls of Fury," & "Piranha 3DD," "Laser Team," and "Killing Hasselhoff." She starred in the indie action flick "Scramble" which she also co-produced. Voronina tours and performs nationally as a stand-up comedian. She has more than 4.5 million social media followers.

47. That we know of, Voronina is depicted in the photos in Exhibit "E" to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Voronina was either an entertainer working

at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

48. Voronina has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

49. Gaxiola began her career as a teenager. She was spotted by a modeling agent at a fast-food restaurant, and after some initial resistance, the teenage beauty decided to try modeling. She became Miss Cuba at the age of 18, and quickly became popular among fashion designers and magazines. She is active in a number of social and charitable causes, and one of her personal missions has been to help young women deal with self-esteem issues. In a small period of time, she has possessed the work ethic and dedication to transition between Beauty, Fashion, TV, and is now a Sports Personality representing the UFC. She has worked for designer brands such as Reebok, Hurley, Guess Jeans, Victoria Secret, Nike, MAC Cosmetics, Roberto Cavalli, Naeem Khan, Paul Marciano, Fendi, Saks Fifth Avenue and Niemen Marcus. She is also the current face of UFC. Her beauty pageants consist of Miss Cuba Grand International, and Miss Cuba International. Jamillette's magazine highlights include those of *GQ Magazine*, *Maxim Australia*, *Open Magazine*, and *Esquire*.

50. That we know of, Gaxiola is depicted in the photos in Exhibit "F" to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Gaxiola was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or

affiliated with the Club.

51. Gaxiola has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

52. Hinton at 14 was discovered by a talent manager at a wedding. By 16 she locked in three national TV commercials and made guest appearances on *Baywatch* and *7<sup>th</sup> Heaven*. Hinton expanded her portfolio to include runway modeling and print campaigns at 18. In 2010, Hinton was the face of the *Palms Hotel & Casino's* ad campaign. She then pursued TV personality roles hosting for *Victory Poker*, and *Top Rank Boxing* interviewing the likes of Manny Pacquiao and Shane Mosley. In 2011, she was selected as *July's Playmate of the Month* becoming one of the most popular Playmates of that year. She was the center piece of an ad campaign for *Milwaukee's Best Beer* in conjunction with *Playboy Enterprises*. Hinton also attained spokesmodel roles for *Affliction Clothing*, *Enzo*, *Milano Hair Products*, *REVIV Wellness Spa*, and *Protein World*. She has ongoing modeling contracts with *Rhonda Shear Shapewear*, *Leg Avenue*, and *Roma Costume*, in addition to hosting a Los Angeles, CA television station *KTLA*. Her images have appeared on billboards, magazines, posters, and multiple forms of electronic media. Hinton has been a featured front cover model gaining attraction for magazines such as *FHM*, *Kandy*, *MMA Sports*, *Guitar World*, and *Muscle & Fitness*. She was named Creative Director for *MAJR Media* and was given part ownership for her role with the company. Hinton has successfully accomplished elite status as a social media celebrity with a combined total of over 4.2

million followers on Facebook, Instagram and Twitter.

53. That we know of, Hinton is depicted in the photos in Exhibit “G” to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Hinton was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

54. Hinton has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant’s unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

55. Killings is a model and music video star. She has appeared in a number of popular magazines such as *SHOW*, *Blackmen*, *Straight Stuntin*, *Smooth*, and *Mixed*. Killings has also appeared in several music videos as the lead talent including Far East Movement ft. Snoop Dogg’s video “OMG,” Slim Thug and Baby Bash’s video “Swananana,” Big Sean and Chris Brown’s video “My Last,” Bow Wow’s video “Pretty Lady,” and Jay Sean ft. Nicki Minaj’s video “2012.” Killings has 1.9 million Instagram followers and 53.1 thousand Twitter followers.

56. That we know of, Killings is depicted in the photos in Exhibit “H” to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Killings was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

57. Killings has never been employed at Omega, has never been hired to

endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

58. Burciaga is a model and a business owner from Orange County, CA. She is of Mexican, French, and Irish descent. Burciaga began modeling in 2005 when she submitted a few photos to *Stuff Magazine*. The magazine responded by flying her out to New York for a photo shoot. After Burciaga's first photo shoot, she won *Stuff Magazine's* "Neighborhood Knockout" contest. The prize was \$5,000, a 4-page spread in the magazine, and an appearance as a ring girl in EA Sports *Fight Night Round 3* video game. Burciaga's popularity rose quickly and she began appearing in various magazines including *Playboy*, *Maxim*, *Import Tuner*, *Modified Mag*, *Performance Auto & Sound*, *Show Latina*, *Lowrider Magazine*, and many others. Burciaga was the *Playboy* Playmate of the Month for February 2009 and has appeared as herself in several episodes of the reality TV series *The Girls Next Door*. Recently she has been focusing on various business ventures including a women's online clothing boutique, [www.SailorandSaint.com](http://www.SailorandSaint.com). Burciaga's social media reach has surpassed 1.6 million followers on Instagram, over 49 thousand Facebook likes, and over 192 thousand followers on Twitter.

59. That we know of, Burciaga is depicted in the photos in Exhibit "I" to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Burciaga was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

60. Burciaga has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

61. Rockwell is a model and actress. She is well known for Angry Video Game Nerd: The Movie (2014), Immigrants (2009), and A Que No Puedes! (2007). She has also appeared on films and tv shows such as, Sons of Anarchy, Entourage, Knight Rider, Heros and she has done music videos for Nickelback and Baby Bash. Miss Rockwell has done prints as a catalog Model for Dreamgirl lingerie, No Fear Calendar, Shift clothing. She's modeled for Hooter's Magazine/Calendar, Extreme RC Car Magazine, and Racer X Magazine to name a few.

62. That we know of, Rockwell is depicted in the photos in Exhibit "J" to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Rockwell was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

63. Rockwell has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

64. Posada is a fashion model and designer. A native of Colombia, Posada is best known as a model for the Besame and Espiral lingerie collections. Posada has also modeled for Paradizia Swimwear, Babalu Swimwear, Irgus Swinwear, Ujeans, as



well as many others. She currently has 95.1 thousand Instagram followers, 2.99 thousand YouTube subscribers, 8,931 Facebook followers, and over 5.6 thousand Twitter followers.

65. That we know of, Posada is depicted in the photos in Exhibit “K” to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Posada was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

66. Posada has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant’s unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

67. Pinder is, and at all times relevant to this action was, an English model, actress, host, businesswoman, and one of Great Britain’s most famous glamour models. Pinder has featured in publications such as *FHM*, *Nuts*, *Loaded*, *The Daily Star*, and hundreds of others. Pinder has appeared on *FHM*’s list of the “100 Sexiest Women in the World” in 2005, 2006, and 2007. She was a guest columnist in *Nuts*, entitled “The Truth About Women” and appeared on the final edition of the *Nuts* magazine cover. Pinder has collaborated with major brands such as Unilever (Lynx) and Camelot (National Lottery) among others, and on large national and international advertising campaigns. Pinder has an established an acting career with many TV appearances and Film credits. She has appeared on shows such as *I’m Famous and Frightened*, *Soccer AM*, *Weakest Link*, *Nuts Tv (host)* *MTV’s TMF (presenter)*, *Hotel*

*Babylon*, and *Team and Bo!* in the USA. Pinder was also a contestant on *Celebrity Big Brother*. Pinder starred in films such as *The Seventeenth Kind*, *Age of Kill*, and *Warrior Savitri*. Pinder works closely with a number of Wildlife charities and is involved in fundraising for Tiger Time, The David Shepherd Wildlife Foundation and International Animal Rescue. Pinder has also worked with *Help for Heroes* appearing in the *Hots Shots* fund raising calendar and supported Male Cancer Awareness Campaign taking part in their MCAC London Strut awareness initiative. She also visited troops in Afghanistan in 2007. Pinder's own annual calendar continues to be one of the bestselling model calendars year after year and enhances Pinder's status as an elite class of Social Media Influencers with a combined total of over 2 million followers on Facebook, Instagram, and Twitter.

68. That we know of, Pinder is depicted in the photos in Exhibit "L" to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Pinder was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

69. Pinder has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

70. Davalos established a modeling career in Colombia as one of the most famous and successful models in all of Latin America by the age of 18. Davalos was the face of Nacar cosmetics and has appeared in Maxim magazine, Imagen magazine, Besame, SOHO TV, Rumbas de la Ciudad, La Granja Tolima, Kiss Catalogue, Deluxe

Jeans, Revista Soho, SCRIBE, Coed People, La Gemela mas Dulce, Para Hombre, Spiritual Jeans and Satori. Davalos is constantly listed in “The top sexiest people in the world” lists and whether solo or teamed up with her twin sister is constantly in demand. Davalos’ worldwide identity has continued to grow and her earning capabilities have increased dramatically with her 563,884 Instagram, Twitter, and Facebook followers.

71. That we know of, Davalos is depicted in the photos in Exhibit “M” to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Davalos was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

72. Davalos has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant’s unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

73. Quy is a beauty, fitness, commercial, and swimwear model. She has worked for brands such as Sketchers Shoes, Benefit Cosmetics, CoverFX Cosmetics, Dreamgirl International Lingerie, Mini Cooper USA, T-Mobile, Apple, Nike, Microsoft, and David’s Bridal. Quy was also employed at Nordstrom/Bobbi Brown Cosmetics in Valleyfair, CA as a makeup artist and at Equinox in Palo Alto, CA as a personal trainer. After 2017, Quy took her passion and postive motivation from industry influencers to music production school, where she quickly released her first track within months and is now a music producer. Quy has over 20,600 Instagram followers, and over 3,819

Twitter followers.

74. That we know of, Quy is depicted in the photos in Exhibit “N” to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Quy was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

75. Quy has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant’s unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

76. Canas is a Colombian born model now residing and working in the United States. Ms. Canas has been in the industry for over twelve years and has found great success as a model, host, runway model, and actor. Canas has worked runway shows in her native Colombia, as well as Mexico, Ecuador, United States, and most recently in Paris, France. She heads up the international campaign and was a contracted model for Curve and their worldwide lingerie line. In Dubai, United Arab Emirates, Canas was chosen as the face of the Masters Golf Tournament, and was the image for the “International Surf and Sport Expo” in Orlando, FL. She has worked for international brands and labels such as SOHO, KISS underwear, Salon International, Zona Rosa, and Esteban Escobar. She has appeared in numerous TV shows like “FOX Sports” and on TV networks such as Telemundo and TV Azteca. Canas continues to build an impressive profile and is constantly in demand between Miami, FL, New York, NY, and Los Angeles, CA. Canas has over 545 thousand Instagram followers, over 10.5 thousand followers on Twitter, and over nine thousand Facebook likes.

77. That we know of, Canas is depicted in the photos in Exhibit "O" to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Canas was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

78. Canas has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

79. Valencia is, and at all times relevant to this action was, a successful professional model with numerous accomplishments. She is regarded as one of the top models in her home country of Colombia. Valencia has modeled in Ecuador, Peru, The Dominican Republic, Mexico and Venezuela. She has worked with clients such as Diesel, Americanino, Leonisa, Chevignon, and Onde de Mar, and is the contract face of Besame Lingerie. She currently has over 141 thousand Instagram followers and over 77.6 thousand Twitter followers.

80. That we know of, Valencia is depicted in the photos in Exhibit "P" to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Valencia was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

81. Valencia has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has

received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

82. Toth is an extremely successful model that takes great pride in holding the prestigious title of a *Playboy* Playmate. Toth was the *Playboy* "Cyber Girl of the Month" for May 2006. She then went on to pose for three pictorials under *Playboy's* Fresh Faces. Moreover, she has not only been featured in such magazines as *Super Street Bike*, *Import Tuner*, *Sport Truck*, *Iron Man*, *Seventeen*, and *Maxim*, but has also posed for various catalogs. Toth currently has over 3.7 million Facebook followers, 1.4 million Instagram followers, and over 305 thousand Twitter followers, and 1.08 thousand YouTube subscribers.

83. That we know of, Toth is depicted in the photos in Exhibit "Q" to promote Omega on its Facebook and Instagram pages. These Images were intentionally altered to make it appear that Toth was either an entertainer working at Omega, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

84. Toth has never been employed at Omega, has never been hired to endorse Omega, has never been otherwise associated or affiliated with Omega, has received no remuneration for Defendant's unauthorized use of her Image, and has suffered, and will continue to suffer, damages as a result of same.

***Defendant's Business***

85. Upon information and belief, Defendant operated, during the relevant time period, the Club, where they engaged in the business of selling alcohol and food in an atmosphere where nude and/or semi-nude women entertain the business' clientele.

86. Upon information and belief, and in furtherance of its promotion their promotion of the Club, Defendant own, operate and control the Club's social media accounts, including its Facebook, Twitter, and Instagram accounts.

87. Defendant used the Club's Facebook, Twitter, and Instagram accounts to promote the Club, and to attract patrons thereto.

88. Defendant did this for their own commercial and financial benefit.

89. Defendant have used, advertised, created, printed and distributed the Images of Plaintiffs, as further described and identified above, in order to create the false impression with potential clientele that each Plaintiff either worked as an entertainer working at the Club, that she endorsed the Club, or that she was otherwise associated or affiliated with the Club.

90. Defendant used Plaintiffs' Images and created the false impression that they worked at or endorsed the Club to receive certain benefits therefrom, including but not limited to: monetary payments; increased promotional, advertising, marketing, and other public relations benefits; notoriety; publicity; as well as an increase in business revenue, profits, proceeds, and income.

91. As Defendant were at all times aware, at no point have any of the above named Plaintiffs ever been affiliated with or employed by the Club and at no point have any of the Plaintiffs ever endorsed the Club, or otherwise been affiliated or associated with the Club.

92. All of Defendant's activities, including their misappropriation of Plaintiffs' Images, and publication of same, were done without the knowledge or consent of Plaintiffs, and Defendant did not compensate Plaintiffs for their use of their Images.

93. As such, Plaintiffs have never received any benefit from Defendant's use of their Images.

***Standard Business Practices in the Modeling Industry***

94. It is common knowledge in the modeling industry that the hiring of a model for a commercial purpose involves a particularized methodology and process.

95. The fee that a professional model, such as each of the Plaintiffs, will receive is negotiated by her agency, and involves consideration of, without limitation, at least the following factors: a) the reputation, earning capacity, experience, and demand of that particular model; b) the location where the photo shoot takes place, and the length thereof; c) where and how the images are going to be used by the client (e.g., company website, social media, television commercials, billboards or posters), known as "usage"; and, d) the length of time (known as the "term") the rights to use the photos will be assigned. Most licenses to use a model's image are for 1, 2, or 3 year terms; but almost never is there a "lifetime" term.

***Defendant's Misappropriation of Plaintiffs' Images***

96. As detailed above, Defendant knowingly, and without the prior consent of any of the Plaintiffs, invaded Plaintiffs' privacy by using Plaintiffs' Images for commercial purposes in order to promote the Club by and through various marketing and promotional mediums including, without limitation, the Club's website, Facebook and Instagram.

97. Defendant showcased Plaintiffs' Images on the Club's social media pages to create the false impression that Plaintiffs worked at the Club, endorsed, promoted or sponsored same, or were otherwise associated or affiliated with same.



98. Defendant did so to attract clientele to the Club, promote the Club, and thereby generate revenue for Defendant.

99. Defendant were aware that, by using Plaintiffs' Images, they were violating Plaintiffs' right of publicity, and creating a false impression to potential customers that Plaintiffs worked at and/or endorsed the Club.

100. Unauthorized use of Plaintiffs' Images deprives them of income they are owed relating to the commercialization of their Images.

101. In addition, Plaintiffs allege that any improper or unauthorized use of their Images substantially injures their careers.

102. This is especially so insofar as each of Plaintiffs' Images have been associated with a night club, and the implication of Defendant's use of Plaintiffs' Images is that they are entertainers, endorse a night club, or are otherwise associated or affiliated with a night club.

103. At no point were any of the Plaintiffs ever affiliated with the Club, or Defendant.

104. Each of Plaintiffs' Images was used without her consent.

105. At no point was any Plaintiff ever contacted by any Defendant, or any representative of any of the Defendant, to request the use of any of Plaintiffs' Images.

106. No Defendant ever obtained, either directly or indirectly, permission to use any of Plaintiffs' Images.

107. No Defendant ever paid any Plaintiff for its use of her Images on any promotional materials, including the Club's website, Twitter, Facebook, or Instagram accounts.

108. Defendant used Plaintiffs' Images without their consent, and without providing remuneration, in order to permanently deprive each of the Plaintiffs of her right to use her Images.

109. Upon information and belief, Defendant have taken the foregoing actions with the intent of causing irreparable harm.

**FIRST CAUSE OF ACTION**  
**(Violation of Each Plaintiff's Right of Publicity, Unauthorized Appropriation and Use of Likeness, Va. Code Ann. § 8.01-40)**

110. Plaintiffs hereby repeat and reallege each and every allegation set forth in the preceding paragraphs as if fully set forth hereon.

111. As set forth hereon, each Plaintiff has and had at the time of Defendant's misappropriation a commercial interest in her image, photo, persona and likeness.

112. As set forth hereon, Defendant have violated each Plaintiff's statutory law right to publicity under Virginia law.

113. Defendant have done so by appropriating each Plaintiff's likeness for commercial purposes without authority or consent.

114. Defendant invaded and violated Plaintiffs' privacy and misappropriated their likeness by publishing their Images on the Club's website or related social media accounts as part of Defendant's advertising campaign.

115. At all relevant times, the Club's website and social media accounts were used and operated by Defendant for advertising and trade purposes.

116. The Club's website and social media accounts were designed to attract business to the Club and generate revenue for Defendant.

117. Plaintiffs are informed and believe and hereon allege that the manner in

which Defendant posted and publicized their image and likeness in a manner that was hidden, inherently undiscoverable, or inherently unknowable, in that Defendant published their image and likeness on social media threads that, over time, are (for example, but not limited to) “pushed” down in time from immediate visibility.

118. Plaintiffs are further informed and believe and hereon allege that discovery will prove that Defendant’s republicized Plaintiff’s image and likeness on various occasions, via different mediums, after the initial date of the posting of their image and likeness and through the filing of this complaint.

119. Plaintiffs are informed and believe and hereon allege that Defendant’s republication of Plaintiff’s image and likeness was altered so as to reach a new audience and/or promote a different product.

120. Upon information and belief, Defendant use of Plaintiffs’ Images did in fact attract clientele and generate business for the Club.

121. At no point did any Defendant ever receive permission or consent to use any Plaintiff’s Image on their website or social media account.

122. Defendant were at all relevant times aware that they never received any Plaintiffs’ permission or consent to use their Images on any website or social media account, or on any other medium, in order to promote the Club.

123. At no point did Defendant compensate Plaintiffs for its use of their Images.

124. No applicable privilege or authorization exists for Defendant’s use of Plaintiffs’ Images.

**SECOND CAUSE OF ACTION**  
**(Violation of Virginia's Business Conspiracy Statute as to Each Plaintiff,  
Va. Code Ann. § 18.2-499/500)**

125. Plaintiffs hereby repeat and reallege each and every allegation set forth in the preceding paragraphs as if fully set forth hereon.

126. On information and belief, OMEGA worked in conjunction with certain third-party graphic designers, independent contractors, DJs, social media consultants and/or others, named herein as DOES 1 THROUGH 5, to misappropriate Plaintiffs' images, repurpose these images, create the subject advertisements using Plaintiffs' repurposed images, and publish the subject advertisements on the Club's social media pages.

127. As set forth in the hundreds of advertisements attached to the Complaint in which Plaintiffs' images were illicitly used, Omega worked in conjunction with, without limitation, DJ Buho; DJ Atrevete; DJ Encendio; DJ Monchi (collectively, the "DJs") to produce the subject advertisements and publish them on Omega's social media pages.

128. Upon information and belief, Omega worked in concert with the DJ's on the particular advertisements in the days and weeks leading up to the publication of each advertisement.

129. Upon information and belief, Omega also worked with graphic designers and others in the creation and publication of the advertisements.

130. Omega worked in concert with these graphic designers and others in the creation and publication of the particular advertisements in the days and weeks leading up to the publication of each advertisement.

131. As detailed in the Complaint and its exhibits, Omega engaged in concerted efforts with the DJs and other on hundreds of separate occasions, each occasion on or about the date of the publication of each of Omega's advertisements.

132. The purpose of Omega's concerted effort was to deprive Plaintiffs of the fair market value of their professional modeling services that they would have obtained had Omega and its co-conspirators operated through legal channels, and thus secure for Omega free advertising.

133. The effect of Omega's concerted effort was in accord with its purpose: the conduct did in fact deprive Plaintiffs of the fair market value of their professional modeling services and did in fact secure for Omega free advertising.

134. Defendants Omega and Does 1-5 acted with legal malice because they intended to deprive each Plaintiff of the fair market value of her professional modeling services and thus secure for themselves free advertising.

135. Defendants Omega and Does 1-5 acted with legal malice because although they knew that they did not have the rights to use any Plaintiff's image for commercial purposes, they used the images anyway.

136. Defendants Omega and Does 1-5 acted with legal malice because they intended to use Plaintiffs' images and secure for themselves free advertising.

137. In the alternative, Defendants Omega and Does 1-5 acted with legal malice by acting recklessly in never investigating whether they had the right to use Plaintiffs' images in advertising.

138. Such actions injured Plaintiffs because they did in fact deprive Plaintiffs of the fair market value of her professional modeling services.

139. As a result of Defendants' illicit concerted efforts, including their unauthorized and misleading publication of Plaintiffs' Images on the Club's website and social media accounts, each of the Plaintiffs was injured by being deprived of the fair market value of her professional modeling services, as Defendants intended.

140. As a result of Defendants' illicit concerted efforts, including their unauthorized and misleading publication of Plaintiffs' Images on the Club's website and social media accounts, each of the Plaintiffs reputations was injured, each of the Plaintiffs' business and trade was injured, and each of the Plaintiffs' ability to market herself as a model was injured.

141. As a result of Defendant's unauthorized and misleading use of Plaintiffs' Images, Plaintiffs have suffered damages in an amount to be determined at trial, including treble damages available under this statute, and all costs and attorneys' fees incurred by Plaintiffs, as available under this statute. .

**THIRD CAUSE OF ACTION**  
**(Violation of §43 of the Lanham Act, 15 U.S.C. §1125(a)(1)(B): False Advertising)**

142. Plaintiffs hereby repeat and reallege each and every allegation set forth in the preceding paragraphs as if fully set forth hereon.

143. The provisions of the Lanham Act, 215 U.S.C. §1125, *et seq.* apply to Defendant, and protect Plaintiffs from the conduct described hereon.

144. As set forth hereon, each advertisement at issue in this action were false and misleading because no Plaintiff ever worked at Omega or agreed to appear in Omega's advertisements.

145. Given the false and misleading nature of the advertisements, they had the capacity to deceive consumers and, upon information and belief, did so deceive

consumers.

146. Upon information and belief, said deceptive advertisements had a material effect on the purchasing decisions of consumers who attended Omega.

147. Insofar as Defendant's published these false and misleading advertisements on the internet, they had the capacity to affect interstate commerce, and, upon information and belief, did so affect interstate commerce.

148. Despite the fact that Defendant were at all times aware that the Plaintiffs neither worked at, nor endorsed the Club, Defendant nevertheless used Plaintiffs Images in order to mislead potential customers as to Plaintiff's employment at and/or affiliation with the Club.

149. Defendant knew that their use of Plaintiffs' Images would cause consumer confusion as to Plaintiffs' sponsorship and/or employment at the Club.

150. Upon information and belief, Defendant use of Plaintiffs' Images did in fact cause consumer confusion as to Plaintiffs' employment at and/or endorsement of the Club, and the goods and services provided by the Club.

151. Due to Defendant unauthorized use of Plaintiffs' Images in order to create a false advertisement prohibited by section 43 of the Lanham Act, Plaintiffs have been damaged in an amount to be determined at trial and are likewise entitled to punitive and exemplary damages.

**FOURTH CAUSE OF ACTION**  
**(Violation of §43 of the Lanham Act, 15 U.S.C. §1125(a)(1)(A): False Association)**

152. Plaintiffs hereby repeat and reallege each and every allegation set forth in the preceding paragraphs as if fully set forth hereon.

153. The provisions of the Lanham Act, 215 U.S.C. §1125, *et seq.* apply to Defendant, and protect Plaintiffs from the conduct described hereon.

154. Defendant used Plaintiffs Images in order, *inter alia*, to create the false impression with the public that Plaintiffs were affiliated, connected, or associated with Omega, or worked at, sponsored, or approved of Omega's goods, services or commercial activities.

155. This was done to promote and attract clientele to Omega, and thereby generate revenue for the Defendants.

156. Thus, this was done in furtherance of Defendants' commercial benefit.

157. Despite the fact that Defendant were at all times aware that the Plaintiffs were neither affiliated, connected or associated with Omega nor worked at, sponsored, or approved of Omega's goods, services or commercial activities, Defendant nevertheless used Plaintiffs Images in order to mislead potential customers as to Plaintiff's employment at and/or affiliation with Utopia Cabaret.

158. Defendant knew that their use of Plaintiffs' Images would cause consumer confusion as to Plaintiffs' sponsorship, affiliation, connection, association and/or employment at the Club.

159. Upon information and belief, Defendant use of Plaintiffs' Images did in fact cause consumer confusion as to Plaintiffs employment at and/or endorsement of the Club, and the goods and services provided by the Club.

160. Due to Defendant unauthorized use of Plaintiffs' Images in order to create a false endorsement prohibited by section 43 of the Lanham Act, Plaintiffs have been damaged in an amount to be determined at trial and are likewise entitled to



punitive and exemplary damages.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request Judgment in their favor and against Defendant as follows:

(a) For actual damages in the amount of one million dollars (\$1,000,000.00) relating to Plaintiffs' first through sixth causes of action, plus pre-judgment and post-judgment interest;

(b) For an order permanently enjoining Defendant from using Plaintiffs' Images to promote the Club;

(c) For punitive damages in an amount of \$350,000 pursuant to Va. Code Ann. § 8.01-40 and §18.2-499/500;

(d) For all costs and attorneys' fees incurred by Plaintiffs in the prosecution of this Action

(e) For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

BRENDA LYNN GEIGER, CLAUDIA  
SAMPEDRO, DANIELLE RUIZ,  
DESSIE MITCHESON, IRINA  
VORONINA, JAMILLETTE  
GAXIOLA, JESSICA 'JESSA'  
HINTON, JESSICA KILLINGS a/k/a  
CHARM KILLINGS, JESSICA  
BURCIAGA, JESSICA ROCKWELL,  
LINA POSADA, LUCY PINDER,  
MARIANA DAVALOS, MAYSA QUY,  
PAOLA CANAS, SANDRA  
VALENCIA, and TIFFANY TOTH.

*Christine Bondi*

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### **CERTIFICATE OF SERVICE**

I hereby certify that on April 9, 2021, a true and accurate copy of this document was served electronically to:

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Christine A. Bondi